



FEDERAL ELECTION COMMISSION
Washington, DC 20463

March 27, 2008

MEMORANDUM

To: Thomasenia P. Duncan
General Counsel

Through: Patrina M. Clark *PK*
Staff Director

From: John D. Gibson *JDG*
Chief Compliance Officer

Joseph F. Stoltz *JFS*
Assistant Staff Director
Audit Division

By: Alex Boniewicz *AB*
Audit Manager

Subject: Joseph Shannon for Congress Committee (A07-25) - Referral Matters

AUDIT REFERRAL # 08-06

On March 27, 2008, the final audit report on the Joseph Shannon for Congress Committee (JSCC) was forwarded to the Commission. Prior to forwarding the final audit report and this referral, the Audit staff contacted JSCC's representative and advised him that documentation indicating the remaining refunds have been negotiated was still required. Additionally, the filing of amended reports was encouraged, as was the submission of any contributor check copies obtained.

The final audit report includes the following matters that meet the criteria for referral to your office:

- **Finding 1. Receipt of Apparent Prohibited Contributions -** The Audit staff identified six contributions totaling \$3,350 which appear to be from corporations. Documentation indicating that refunds for three of the prohibited contributions (\$1,500) had been negotiated was provided; however, documentation indicating the remaining refunds (\$1,850) have been negotiated is still required.
- **Finding 2. Misstatement of Financial Activity -** A comparison of JSCC reported activity to bank records for 2006 revealed misstatements for receipts,

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disbursements and ending cash on hand. Receipts were overstated by \$10,162, disbursements overstated by \$19,564 and ending cash on hand was understated by \$17,582. No amended reports have been filed.

- Finding 3. Disclosure of Disbursements - The Audit staff noted 56 disbursements totaling \$160,391 for which disclosure of the purpose and/or address was either absent or inaccurate. No amended reports have been filed.
- Finding 4. Receipts Documentation - JSCC failed to maintain copies of contributor checks, as required, for 35 contributions, totaling \$30,775. No copies of contributor checks were submitted as part of JSCC's response.

All work papers and related documentation are available for review in the Audit Division. Should you have any questions regarding this matter, please contact Alex Boniewicz at 694-1200.

Attachments:

Finding 1. Receipt of Apparent Prohibited Contributions

Finding 2. Misstatement of Financial Activity

Finding 3. Disclosure of Disbursements

Finding 4. Receipts Documentation

**cc: Lorenzo Holloway
Lawrence Calvert**

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Part IV

Findings and Recommendations

Finding 1. Receipt of Apparent Prohibited Contributions

Summary

The Audit staff identified six contributions totaling \$3,350 which appear to be from corporations. In response to the interim audit report, JSCC provided copies of refund checks it had issued for all six contributions.

Legal Standard

Receipt of Prohibited Contributions – General Prohibition. Candidates and committees may not accept contributions (in the form of money, in-kind contributions or loans) from the treasury funds of corporations (this means any incorporated organization, including a non-stock corporation, an incorporated membership organization, and an incorporated cooperative. 2 U.S.C. §441b(a).

Facts and Analysis

The Audit staff reviewed all contributions received by JSCC and identified 6 contributions totaling \$3,350¹ from corporations. The corporate status of the entities at the time the contribution was made was verified with the Secretary of State.

The Audit staff presented this matter to JSCC's representatives during the exit conference along with a schedule of the apparent prohibited contributions, copies of the contributor checks and copies of the verifications of corporate status. A discussion of corporations ensued and JSCC's representative indicated these items would be rectified.

Interim Audit Report Recommendation and Committee Response

The Audit staff recommended that JSCC provide evidence that these contributions were not prohibited. Absent such evidence, it was recommended that JSCC refund the \$3,350 to the contributors and provide documentation for such refunds (i.e. copies, front and back, of each negotiated refund check); or disgorge these funds to the U.S. Treasury. If funds were not available to make the refunds, then the refund amount due should have been disclosed on Schedule D until funds became available to make the refunds.

In its response, JSCC submitted copies of refund checks issued for all six prohibited contributions as well as some bank documentation and related refund transmittal letters/emails. The documentation indicated that refunds for three of the prohibited contributions (\$1,500) had been negotiated. The Audit staff advised JSCC documentation indicating the remaining refunds (\$1,850) have been negotiated is still required.

¹ This amount could have increased as a result of documentation submitted in response to Finding 4., Receipts Documentation; however, to date, no additional documentation has been provided.

Finding 2. Misstatement of Financial Activity

Summary

A comparison of JSCC reported activity to bank records for 2006 revealed misstatements for receipts, disbursements and ending cash on hand. Receipts were overstated by \$10,162, disbursements overstated by \$19,564 and ending cash on hand was understated by \$17,582. In response to the interim audit report, JSCC noted it is committed to amending its reports and detailed its unsuccessful attempt to amend its disclosure reports to correct the misstatements.

Legal Standard

Contents of Reports: Each report must disclose:

- The amount of cash on hand at the beginning and end of the reporting period;
- The total amount of receipts for the reporting period and for the election cycle;
- The total amount of disbursements for the reporting period and for the election cycle; and
- Certain transactions that require itemization on Schedule A (Itemized Receipts) or Schedule B (Itemized Disbursements). 2 U.S.C. §434(b)(1), (2), (3), (4) and (5).

Facts and Analysis

The Audit staff reconciled JSCC's reported financial activity to its bank records for 2006. The following charts outline the discrepancies and succeeding paragraphs address the reasons for the misstatements.

2006 Activity			
	Reported	Bank Records	Discrepancy
Opening Cash Balance at February 2, 2006	\$0	\$0	\$0
Receipts	\$216,820	\$206,658	\$10,162 Overstated
Disbursements	\$225,844	\$206,280	\$19,564 Overstated
Ending Cash Balance at December 31, 2006	\$(17,204) ²	\$378	\$17,582 ³ Understated

The net overstatement of receipts in 2006 was the result of the following:

• In-kind contributions not reported	+ \$ 5,200
• Reported receipts not supported by a deposit or credit	- 23,154
• Receipts not reported	+ 7,047
• Unexplained understatement	+ 745
• Net Overstatement of Receipts	- \$ 10,162

² These figures do not foot mainly as the result of errors arising from the ending cash balance of one report differing from the beginning cash on hand balance of the subsequent report.

³ Ibid.

The net overstatement of disbursements in 2006 was the result of the following:

• In-kind contributions not reported	+	\$ 5,200
• Operating expenditures not reported	+	18,612
• Disbursement amount reported incorrectly	+	270
• Disbursement reported not supported by a check or debit.	-	44,024
The majority appear to be duplicate entries.		
• Unexplained Understatement	+	378
• Net Overstatement of Disbursements	-	\$ 19,564

As a result of the misstatements detailed above and errors arising from the ending cash balance of one report differing from the beginning cash on hand balance of the subsequent report, ending cash on hand for 2006 was understated by \$17,582.

The Audit staff presented this matter to JSCC representatives during the exit conference along with schedules detailing the discrepancies. JSCC representatives indicated amendments would be filed.

Interim Audit Report Recommendation and Committee Response

The Audit staff recommended that JSCC:

- File amended reports to correct the misstatements; and,
- Amend the cash balance of its most recent report with an explanation that it resulted from audit adjustments from a prior period.

In response to the interim audit report, JFCC indicated that one amended report had been transmitted and that it had difficulty submitting additional amended reports. JSCC's response notes its commitment to correcting all reports.

The Audit staff determined that the report JSCC indicated had been transmitted had not been filed. In addition, JSCC was advised that the amended reports had to be filed for it to be considered in compliance with the Audit staff's recommendation. JSCC was also provided information on Commission staff that could assist in the filing of amended reports.

To date, amended reports have not been filed.

Finding 3. Disclosure of Disbursements

Summary

The Audit staff noted 56 disbursements totaling \$160,391 for which disclosure of the purpose and/or address was either absent or inaccurate. Inadequate recordkeeping of purposes contributed significantly to this problem. In response to the interim audit report, JSCC noted it is committed to amending its reports and detailed its unsuccessful attempt to amend its reports to correct the disclosure of these disbursements.

Legal Standard

A. Reporting Operating Expenditures: When operating expenditures to the same person exceed \$200 in an election cycle, the committee must report the:

- Amount;
- Date when the expenditures were made;
- Name and address of the payee; and
- Purpose (a brief description of why the disbursement was made—see below). 2 U.S.C. §434(b)(5)(A) and 11 CFR §104.3(b)(4)(i).

B. Examples of Purpose.

- **Adequate Descriptions.** Examples of adequate descriptions of “purpose” include the following: dinner expenses, media, salary, polling, travel, party fees, phone banks, travel expenses, travel expense reimbursement, catering costs, loan repayment, or contribution refund. 11 CFR §104.3 (b)(4)(i)(A).
- **Inadequate Descriptions.** The following descriptions do not meet the requirement for reporting “purpose”: advance, election day expenses, other expenses, expense reimbursement, miscellaneous, outside services, get-out-the-vote, and voter registration. 11 CFR §104.3 (b)(4)(i)(A).

Facts and Analysis

The Audit staff reviewed 79 disbursements, totaling \$180,307 for adequacy of disclosure. Of these, 56 disbursements, totaling \$160,391, or about 90% of the dollars reviewed, were not adequately disclosed. For most of these disbursements, the purpose was not disclosed. Additionally, for some disbursements the address was incorrectly disclosed. Some of the inadequate disclosure appears to have resulted from the information not being maintained in JSCC records (See Scope Limitation, page 1).

The Audit staff presented this matter to JSCC representatives during the exit conference along with schedules detailing the discrepancies. JSCC representatives indicated amendments would be filed.

Interim Audit Report Recommendation and Committee Response

The Audit staff recommended that JSCC amend its reports to adequately disclose these disbursements. In response to the interim audit report, JFCC indicated that one amended report had been transmitted and that it had difficulty submitting additional amended reports. JSCC's response notes its commitment to correcting all reports.

The Audit staff determined that the report JSCC indicated had been transmitted had not been filed. In addition, JSCC was advised that the amended reports had to be filed for it to be considered in compliance with the Audit staff's recommendation. JSCC was also provided information on Commission staff that could assist in the filing of amended reports.

To date, amended reports have not been filed.

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Finding 4. Receipts Documentation

Summary

JSCC failed to maintain copies of contributor checks, as required, for 35 contributions, totaling \$30,775. In response to the interim audit report, JSCC stated that an oversight resulted in the copies of contributor checks either not being made or the copies misplaced. Although having limited success, JSCC will continue to attempt to obtain the missing check copies.

Legal Standard

A. Recordkeeping Requirements for Receipts. Political committees must keep records of:

- All contributions received by or on behalf of the committee;
- The name and address of any person who makes a contribution in excess of \$50, together with the date and amount of the contribution; and
- The occupation and name of employer of any individual whose contributions aggregate more than \$200 during a calendar year, together with the date and amount of any such contributions. 2 U.S.C. §432(c).

B. Retention of Check Copies. For contributions in excess of \$50, committees must maintain a photocopy or digital image of the check or written instrument. 2 U.S.C. §102.9(A)(4)

C. Preserving Documents. Committees must preserve these records for 3 years after a report is filed. 2 U.S.C. §432(d).

Facts and Analysis

As part of its review of all receipts, the Audit staff noted that JSCC failed to maintain copies of contributor checks, as required, for 35 contributions, totaling \$30,775. Most of the missing check copies involved contributions received during February and March 2006, shortly after JSCC's inception.

The Audit staff presented this matter to the JSCC representative during the exit conference. The representative indicated efforts would be made to obtain the missing check copies. Some additional records have been provided and the representative indicated his efforts to locate additional check copies continue.

Interim Audit Report Recommendation and Committee Response

The Audit staff recommended that JSCC further attempt to obtain the missing contribution records by contacting its bank and having any additional records located sent directly to the Audit staff; and provide any comments it may yet have relative to this matter.

In its response to the interim audit report, JSCC stated that due to an oversight at the initial fundraiser, copies of contributor's checks were either not made or misplaced.

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Since being notified of this issue during the audit, JSCC has diligently attempted to obtain copies of the missing checks from contributors. All copies obtained have been forwarded. Due to the length of time since the campaign, and limited committee resources, JSCC has had limited success in this regard. The response advises that JSCC will continue to attempt to obtain those copies not yet supplied, has fully cooperated with all requests from the Commission and has used its best efforts to correct the findings documented by the audit.

JSCC's response did not contain any copies of contributor checks; as such, \$30,775 in contributions from individuals remains undocumented.

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